

Serial No.: 10/629,839

Art Unit: 2131

Page 9

REMARKS

This is a full and timely response to the outstanding Office action mailed January 23, 2006. Upon entry of the amendments in this response claims 1-20 are pending. More specifically, claim 7 is amended. This amendment is specifically described hereinafter.

I. Present Status of Patent Application

Claims 1-5, 7-9, and 14-17 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Unger* (U.S. Publication No. 2003/0026423). Claims 6, 10-13, and 18-20 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Unger* (U.S. Patent No. 2003/0026423) in view of *Faulkner, et al* (U.S. Patent No. 5,144,669). These rejections are respectfully traversed.

II. Rejections Under 35 U.S.C. §102(e)**A. Claims 1-5**

The Office Action rejects claims 1-5 under 35 U.S.C. §102(e) as allegedly being anticipated by *Unger* (U.S. Publication No. 2003/0026423). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 recites:

I. A method for providing an encrypted transport stream, the method comprising the steps of:

receiving a clear stream, the clear stream including a plurality of programs, each program comprising a plurality of packets each having a packet identifier (PID), wherein at least one of the plurality of packets is designated a critical packet;

scrambling the clear stream according to a first encryption method to provide a first encryption stream;

Serial No.: 10/629,839

Art Unit: 2131

Page 10

scrambling the clear stream according to a second encryption method to provide a second encryption stream;
aligning in time the clear stream, the first encryption stream and the second encryption stream;
passing packets of the clear stream through a multiplexer, wherein the at least one critical packet is identified in the packets of the clear stream, the critical packet of the clear stream drops and the scrambled critical packets included in the first and second encryption streams pass; and
multiplexing the packets of the clear stream and the critical packets of the first and second encryption streams to provide a partial dual encrypted stream.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Unger* does not disclose, teach, or suggest at least ***passing packets of the clear stream through a multiplexer, wherein the at least one critical packet is identified in the packets of the clear stream, the critical packet of the clear stream drops and the scrambled critical packets included in the first and second encryption streams pass.*** In *Unger*,

the cable system headend 322 selects A/V content 304 packets at a packet selector 316 for encryption. Packets selected for encryption are chosen so that their non-receipt (by a non-paying decoder) would severely affect the real-time decoding of a program, and any possible post processing of recorded content. That is, *only critical packets are encrypted.*

(Emphasis added). *See Unger*, para [0084].

If *Unger*, arguendo, teaches that only critical packets are encrypted, it does not teach passing packets of the clear stream through a multiplexer, wherein the at least one critical packet

Serial No.: 10/629,839

Art Unit: 2131

Page 11

is identified in the packets of the clear stream, the critical packet of the clear stream drops and the scrambled critical packets included in the first and second encryption streams pass. Therefore, *Unger* does not anticipate independent claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the cited references of record, dependent claims 2-5 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-5 contain all the steps/features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002); *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-5 are patentable over *Unger*, the rejection to claims 2-5 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-5 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 2-5 are allowable.

B. Claims 7-9

The Office Action rejects claims 7-9 under 35 U.S.C. §102(e) as allegedly being anticipated by *Unger* (U.S. Publication No. 2003/0026423). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 7 as amended recites:

7. A partial dual-encryption device for encrypting a clear stream comprising:
*a port for providing a first encrypted stream corresponding to the clear stream
from a first scrambler;*
*a port for providing a second encrypted stream corresponding to the clear stream
from a second scrambler;*
an aligner, identifier, and remapper (AIR) device coupled to each scrambler for
providing a partial dual-encrypted stream;

Serial No.: 10/629,839

Art Unit: 2131

Page 12

wherein the clear stream having at least one critical packet is provided to each scrambler and the AIR device, wherein the AIR device aligns packets of the clear stream, the first encrypted stream, and the second encrypted stream, and wherein, upon identification of the at least one critical packet of the clear stream, provides the partial dual-encrypted stream including non-critical packets of the clear stream, a critical packet of the first encrypted stream, and a remapped critical packet of the second encrypted stream.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 7 as amended is allowable for at least the reason that *Unger* does not disclose, teach, or suggest at least **a port for providing a first encrypted stream corresponding to the clear stream from a first scrambler; and a port for providing a second encrypted stream corresponding to the clear stream from a second scrambler.** In *Unger*,

the cable system headend 322 selects A/V content 304 packets at a packet selector 316 for encryption. Packets selected for encryption are chosen so that their non-receipt (by a non-paying decoder) would severely affect the real-time decoding of a program, and any possible post processing of recorded content. That is, *only critical packets are encrypted.*

(Emphasis added). See *Unger*, para [0084].

If *Unger*, arguendo, teaches that only critical packets are encrypted, it does not teach a port for providing a first encrypted stream corresponding to the clear stream from a first scrambler; and a port for providing a second encrypted stream corresponding to the clear stream from a second scrambler. *Unger* only encrypts the critical packets. The first encrypted stream in *Unger* does not correspond to the clear stream. It only corresponds to the critical packets of the

Serial No.: 10/629,839

Art Unit: 2131

Page 13

clear stream. Therefore, *Unger* does not anticipate independent claim 7, and the rejection should be withdrawn.

Because independent claim 7 as amended is allowable over the cited references of record, dependent claims 8 and 9 (which depend from independent claim 7) are allowable as a matter of law for at least the reason that dependent claims 8 and 9 contain all the steps/features of independent claim 7. Therefore, since dependent claims 8 and 9 are patentable over *Unger*, the rejection to claims 8 and 9 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 7, dependent claims 8 and 9 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 8 and 9 are allowable.

C. Claims 14 and 15

The Office Action rejects claims 14 and 15 under 35 U.S.C. §102(e) as allegedly being anticipated by *Unger* (U.S. Publication No. 2003/0026423). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 14 recites:

14. A method for transmitting an encrypted transport stream, the method comprising the steps of:

receiving a clear stream, the clear stream including a plurality of programs, each program comprising a plurality of packets each having a packet identifier (PID), wherein at least one of the plurality of packets is designated a critical packet;

scrambling with a scrambler the clear stream according to a first encryption method to provide a first encryption stream;

aligning in time the clear stream and the first encryption stream;

identifying the at least one critical packet associated with the clear stream, wherein prior to identification, *packets associated with the clear stream pass to a*

Serial No.: 10/629,839

Art Unit: 2131

Page 14

multiplexer and encrypted packets associated with the first encrypted stream drop, and wherein subsequent to identification, packets associated with the clear stream pass to a second scrambler and encrypted packets associated with the first encrypted stream pass to the multiplexer, wherein the second scrambler provides a second encrypted stream to the multiplexer; and

multiplexing non-critical packets associated with the clear stream and the encrypted critical packets associated with the first and second encrypted streams to provide a partial dual-encrypted stream.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 14 as amended is allowable for at least the reason that *Unger* does not disclose, teach, or suggest at least **packets associated with the clear stream pass to a multiplexer and encrypted packets associated with the first encrypted stream drop, and wherein subsequent to identification, packets associated with the clear stream pass to a second scrambler and encrypted packets associated with the first encrypted stream pass to the multiplexer, wherein the second scrambler provides a second encrypted stream to the multiplexer; and multiplexing non-critical packets associated with the clear stream and the encrypted critical packets associated with the first and second encrypted streams to provide a partial dual-encrypted stream.** In *Unger*,

the cable system headend 322 selects A/V content 304 packets at a packet selector 316 for encryption. Packets selected for encryption are chosen so that their non-receipt (by a non-paying decoder) would severely affect the real-time decoding of a program, and any possible post processing of recorded content. That is, *only critical packets are encrypted.*

(Emphasis added). See *Unger*, para [0084].

Serial No.: 10/629,839

Art Unit: 2131

Page 15

If Unger, *arguendo*, teaches that only critical packets are encrypted, it does not teach packets associated with the clear stream pass to a multiplexer and encrypted packets associated with the first encrypted stream drop, and wherein subsequent to identification, packets associated with the clear stream pass to a second scrambler and encrypted packets associated with the first encrypted stream pass to the multiplexer, wherein the second scrambler provides a second encrypted stream to the multiplexer; and multiplexing non-critical packets associated with the clear stream and the encrypted critical packets associated with the first and second encrypted streams to provide a partial dual-encrypted stream. Therefore, *Unger* does not anticipate independent claim 14, and the rejection should be withdrawn.

Because independent claim 14 as amended is allowable over the cited references of record, dependent claim 15 (which depends from independent claim 14) is allowable as a matter of law for at least the reason that dependent claim 15 contains all the steps/features of independent claim 14. Therefore, since dependent claim 15 is patentable over *Unger*, the rejection to claim 15 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 14, dependent claim 15 recites further features and/or combinations of features, as are apparent by examination of the claim itself, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claim 15 is allowable.

D. Claims 16 and 17

The Office Action rejects claims 16 and 17 under 35 U.S.C. §102(e) as allegedly being anticipated by *Unger* (U.S. Publication No. 2003/0026423). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 16 recites:

16. A partial dual-encryption device comprising:
a port for providing a first encrypted stream from a first scrambler;
an aligner, identifier, and remapper (AIR) device coupled to the scrambler for
providing a partial dual-encrypted stream;

Serial No.: 10/629,839

Art Unit: 2131

Page 16

wherein a clear stream having at least one critical packet is provided to the scrambler and the AIR device, wherein the AIR device aligns packets of the clear stream and the first encrypted stream, and identifies the at least one critical packet associated with the clear stream, wherein, upon identification of the at least one critical packet, provides the at least one critical packet to a second scrambler, the second scrambler to provide a second encrypted stream, and wherein the AIR device provides the partial dual-encrypted stream including non-critical packets associated with the clear stream and dually-encrypted critical packets associated with the first and second encrypted streams.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 16 as amended is allowable for at least the reason that *Unger* does not disclose, teach, or suggest at least **wherein a clear stream having at least one critical packet is provided to the scrambler and the AIR device, wherein the AIR device aligns packets of the clear stream and the first encrypted stream, and identifies the at least one critical packet associated with the clear stream, wherein, upon identification of the at least one critical packet, provides the at least one critical packet to a second scrambler, the second scrambler to provide a second encrypted stream, and wherein the AIR device provides the partial dual-encrypted stream including non-critical packets associated with the clear stream and dually-encrypted critical packets associated with the first and second encrypted streams.** In *Unger*,

the cable system headend 322 selects A/V content 304 packets at a packet selector 316 for encryption. Packets selected for encryption are chosen so that their non-receipt (by a non-paying decoder) would severely affect the real-time decoding of a program, and any possible post processing of recorded content. That is, *only critical packets are encrypted.*

Serial No.: 10/629,839

Art Unit: 2131

Page 17

(Emphasis added). *See Unger*, para [0084].

If *Unger*, arguendo, teaches that only critical packets are encrypted, it does not teach a clear stream having at least one critical packet is provided to the scrambler and the AIR device, wherein the AIR device aligns packets of the clear stream and the first encrypted stream, and identifies the at least one critical packet associated with the clear stream, wherein, upon identification of the at least one critical packet, provides the at least one critical packet to a second scrambler, the second scrambler to provide a second encrypted stream, and wherein the AIR device provides the partial dual-encrypted stream including non-critical packets associated with the clear stream and dually-encrypted critical packets associated with the first and second encrypted streams. Therefore, *Unger* does not anticipate independent claim 16, and the rejection should be withdrawn.

Because independent claim 16 as amended is allowable over the cited references of record, dependent claim 17 (which depends from independent claim 16) is allowable as a matter of law for at least the reason that dependent claim 17 contains all the steps/features of independent claim 16. Therefore, since dependent claim 17 is patentable over *Unger*, the rejection to claim 17 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 16, dependent claim 17 recites further features and/or combinations of features, as are apparent by examination of the claim itself, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claim 17 is allowable.

III. Rejections Under 35 U.S.C. §103(a)

A. Claim 6

The Office Action rejects claim 6 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Unger* (U.S. Patent No. 2003/0026423) in view of *Faulkner, et al* (U.S. Patent No. 5,144,669). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Serial No.: 10/629,839

Art Unit: 2131

Page 18

Because independent claim 1 is allowable over the cited references of record, dependent claim 6 (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 6 contains all the steps/features of independent claim 1. Therefore, the rejection to claim 6 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claim 6 recites further features and/or combinations of features, as are apparent by examination of the claim itself, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claim 6 is allowable.

Additionally, with regard to the rejection of claim 6, *Faulkner* does not make up for the deficiencies of *Unger* noted above. Therefore, claim 6 is considered patentable over any combination of these documents.

B. Claims 10-13

The Office Action rejects claims 10-13 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Unger* (U.S. Patent No. 2003/0026423) in view of *Faulkner, et al* (U.S. Patent No. 5,144,669). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 7 is allowable over the cited references of record, dependent claims 10-13 (which depend from independent claim 7) are allowable as a matter of law for at least the reason that dependent claims 10-13 contain all the steps/features of independent claim 7. Therefore, the rejection to claims 10-13 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 7, dependent claims 10-13 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 10-13 are allowable. Additionally, with regard to the rejection of claims 10-13, *Faulkner* does not make up for the deficiencies of *Unger* noted above. Therefore, claims 10-13 are considered patentable over any combination of these documents.

Serial No.: 10/629,839

Art Unit: 2131

Page 19

C. Claims 18-20

The Office Action rejects claims 18-20 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Unger* (U.S. Patent No. 2003/0026423) in view of *Faulkner, et al* (U.S. Patent No. 5,144,669). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 16 is allowable over the cited references of record, dependent claims 18-20 (which depend from independent claim 16) are allowable as a matter of law for at least the reason that dependent claims 18-20 contain all the steps/features of independent claim 16. Therefore, the rejection to claims 18-20 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 16, dependent claims 18-20 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 18-20 are allowable.

Additionally, with regard to the rejection of claims 18-20, *Faulkner* does not make up for the deficiencies of *Unger* noted above. Therefore, claims 18-20 are considered patentable over any combination of these documents.

IV. Miscellaneous Issues

The specification has been amended to overcome the objection due to informalities. Applicant respectfully submits that no new matter has been added to the specification.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

Serial No.: 10/629,839

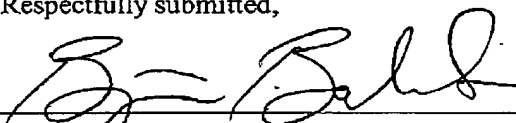
Art Unit: 2131

Page 20

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-20 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


Benjamin A. Balser, Reg. No. 58,169

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500